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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,650	08/14/2000	Michael J. Cuttler	4590-004	9848
26158	7590	11/16/2005	EXAMINER	
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC			BLECK, CAROLYN M	
P.O. BOX 7037			ART UNIT	
ATLANTA, GA 30357-0037			PAPER NUMBER	
			3626	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/638,650	Applicant(s) CUTTLER ET AL.	
	Examiner Carolyn M. Bleck	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6-15,17,25-31 and 47-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-15,17,25-31 and 47-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

✓

DETAILED ACTION

Notice to Applicant

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on *** has been entered.
2. This communication is in response to the RCE filed 21 July 2005. Claims 1, 6-15, 17, 25-31 and 47-72 are pending (filed 16 March 2004).

Declaration filed under 37 C.F.R. 1.131

3. The declaration filed on 7 July 2005 under 37 CFR 1.131 is sufficient to overcome the Williams et al. (6,618,734) reference filed 20 July 2000.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 6-13, 15, 17, 25-31, 47-50, 52-65, and 67-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al. (5,893,098) in view of Sarchione et al. (Sarchione, Charles D., Michael J. Cuttler, Paul M. Muchinsky, and Rosemary O. Nelson-Gray, "Prediction of Dysfunctional Job Behaviors Among Law Enforcement Officers", *Journal of Applied Psychology*, Vol. 83, No. 6, pp. 904-912, 1998).

(A) As per claim 1, Peters discloses a method for obtaining and collating information from a plurality of computer users by asking questions using a survey (Abstract) comprising:

(a) presenting to the respondent user a plurality of screens containing a plurality of questions, wherein the plurality of questions contained in a survey document on each screen ask one question, and where the screen presenting a branched-to question will not be presented by the display to the remote respondent user unless he makes one or more predetermined answers to a previous question or questions (col. 1 lines 10-16, col. 3 line 47 to col. 6 line 44, col. 115 line 1 to col. 116 line 56);

(b) receiving responses from the respondent user to the question and storing the response to the question in a database record by updating the database record (col. 1 lines 10-16, col. 3 line 47 to col. 6 line 44, col. 115 line 1 to col. 116 line 56);

(c) based on the response to the question, dynamically determining whether to present the branched-to question to the respondent user (col. 1 lines 10-16, col. 3 line 47 to col. 6 line 44, col. 115 line 1 to col. 116 line 56);

(d) if the branched-to question is to be presented to the user based on the previous answer, displaying the branched-to question to the respondent user, and receiving from the respondent user a response to the branched-to question, which is then stored in the database in an updated record (col. 1 lines 10-16, col. 3 line 47 to col. 6 line 44, col. 115 line 1 to col. 116 line 56);

(e) wherein the answers to the questions are collated for collating responses (col. 10 lines 30-37).

Peters fails to expressly disclose including questions related to life history information, wherein the life history information comprises more than one life event. In addition, Williams does not expressly recite the responses being relevant to predicting a predefined negative outcome for the applicant.

Sarchione includes using personality and life history information to predict dysfunctional job behavior (reads on "predefined negative outcome") in the law enforcement occupation, wherein the dysfunctional job behaviors encompass a wide variety of undesirable actions such as absence, theft, and drug use, sexual misconduct, insubordination, and inappropriate verbal conduct toward the public (reads on "predefined negative outcome"), wherein the life history information was obtained from personal history questionnaires, a structured interview, and/or a background investigation report and including information related to work history, criminal history, and drug use history (reads on "life history information comprises more than one life event"), and wherein life history indices were predictive of job behavior as individuals who engaged in behaviors such as marijuana use, military court martial, and conviction

for driving under the influence of alcohol (reads on “negative indicator” and “critical item”) had a much higher probability of subsequent disciplinary problems (reads on “predefined negative outcome”) as law enforcement officers than their counterparts who did not engage in such behaviors (page 905 col. 1 par. 2 and col. 2 par. 1-2; page 906 col. 1 par. 1 and col. 2 par. 2-4; Table 1 page 907; page 910 col. 1 all; page 911 col. 1 all).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the aforementioned components of Sarchione within the method taught by Peters with the motivation of reducing the amount of time to answer a survey by guiding a user through a survey (Peters; col. 6 lines 23-27) and of accurately forecasting dysfunctional job behaviors which have high public visibility and produce high organization scrutiny – such as that of law enforcement officers, therefore reducing the occurrences of these behaviors and reducing public outrage and rebuke (Sarchione; page 905, col. 2, second full paragraph).

(B) Claim 2 repeats the same limitations as claim 1, and is therefore rejected for the same reasons given above in claim 1, and incorporated herein.

(C) As per claims 6 and 8-9, Sarchione includes deriving classes of dysfunctional job behaviors (reads on “negative outcome”) and using the classes to predict the probability of subsequent disciplinary problems (reads on “predefined outcome”) as a law enforcement officers than counterparts who did not engage in such behaviors (page 905

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col. 1 par. 2 and col. 2 par. 1-2; page 906 col. 1 par. 1 and col. 2 par. 2-4; Table 1 page 907; page 910 col. 1 all; page 911 col. 1 all), wherein the classes include absence (reads on “performance deficiency”), theft, drug use, sexual misconduct, insubordination, inappropriate verbal conduct toward the public, disciplinary problems (reads on “objective”) (page 905 col. 2 par 1-2; page 906 col. 1 par. 3 and col. 2 par. 1-2). The motivation for combining Sarchione within Williams and Peters is given above in the rejection of claim 1, and incorporated herein.

(D) As per claim 7, Peters and Sarchione fail to expressly disclose the outcome including failure to complete training. However, Sarchione clearly discloses predicting disciplinary problems for law enforcement officers (see rejection of claims 6 and 8-9). It appears having disciplinary problems as a law enforcement officer would be related to failing training (i.e., having a discipline problem would likely result in not being able to complete training.) In addition, it is respectfully submitted that when evaluating an applicant for a job, an employer typically takes into consideration whether or not an applicant would be able to complete the required training based on the applicant’s background, and the skilled artisan would have found it an obvious modification to include an outcome of failure to complete training within the method taught collectively by Peters and Sarchione with the motivation increasing job retention and decreasing training costs by ensuring people remain with the employer reducing the need to train new employees and accurately forecasting dysfunctional job behaviors which have high public visibility and produce high organization scrutiny – such as that of law

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enforcement officers, therefore reducing the occurrences of these behaviors and reducing public outrage and rebuke (Sarchione; page 905, col. 2, second full paragraph).

(E) As per claim 10, Peters includes allowing a user to input text in response to a question or a branched to question (reads on "stem question") (col. 4 lines 20-25 and col. 6 lines 51-57). As per the recitation of "descriptive information," it is noted that Peter's ability to enter textual information is considered to be a form of "descriptive information." The motivation being to allow complicated text answers to be entered by a user (Peters; col. 6 lines 51-57).

(F) Claims 11-13 repeat the same limitations as claim 1, and are therefore rejected for the same reasons given for claim 1, and incorporated herein.

(G) Claim 67 repeats the same limitations as claim 1, and is therefore rejected for the same reasons given for claim 1, and incorporated herein.

(H) As per claims 68, 70, and 72, Sarchione includes deriving classes of dysfunctional job behaviors (reads on "negative outcome") and using the classes to predict the probability of subsequent disciplinary problems (reads on "predefined outcome") as a law enforcement officers than counterparts who did not engage in such behaviors (page 905 col. 1 par. 2 and col. 2 par. 1-2; page 906 col. 1 par. 1 and col. 2 par. 2-4; Table 1

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page 907; page 910 col. 1 all; page 911 col. 1 all), wherein the classes include absence (reads on "performance deficiency"), theft, drug use, sexual misconduct, insubordination, inappropriate verbal conduct toward the public, disciplinary problems (reads on "objective") (page 905 col. 2 par 1-2; page 906 col. 1 par. 3 and col. 2 par. 1-2). Sarchione discloses that individuals who engaged in such job behaviors had a much higher probability of subsequent disciplinary problems than their counterparts who did not engage in those behaviors (page 905 col. 2 par 1-2; page 906 col. 1 par. 3 and col. 2 par. 1-2). It is noted that the "high probability" is considered to be a form of "empirically related." The motivation for combining Sarchione within Williams and Peters is given above in the rejection of claim 1, and incorporated herein.

(I) Claims 15, 17, 25, 28-31, 48-50, and 69 repeat the subject matter of method claims 1-2, 6-9, 10-13, and 67, respectively, as a computer readable medium comprised of software for instructing a computer rather than as a series of steps. As the underlying processes of claims 1-2, 6-9, 10-13, and 67 have been shown to be fully disclosed by the collective teachings of Peters and Sarchione in the above rejections of claims 1-2, 6-9, 10-13, and 67, it is readily apparent that software implementation (Peters; col. 23 lines 23-36) disclosed collectively by Peters and Sarchione includes the software to perform these steps. As such, these limitations are rejected for the same reasons given above for method claims 1-2, 6-9, 10-13, and 67, and incorporated herein.

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(J) As per claims 26-27, Sarchione includes deriving classes of dysfunctional job behaviors (reads on “negative outcome”) and using the classes to predict the probability of subsequent disciplinary problems (reads on “predefined outcome”) as a law enforcement officers than counterparts who did not engage in such behaviors (page 905 col. 1 par. 2 and col. 2 par. 1-2; page 906 col. 1 par. 1 and col. 2 par. 2-4; Table 1 page 907; page 910 col. 1 all; page 911 col. 1 all), wherein the classes include absence (reads on “performance deficiency”), theft, drug use, sexual misconduct, insubordination, inappropriate verbal conduct toward the public, disciplinary problems (reads on “objective”) (page 905 col. 2 par 1-2; page 906 col. 1 par. 3 and col. 2 par. 1-2). The motivation for combining Sarchione within Peters is given above in the rejection of claim 1, and incorporated herein.

(K) As per claim 47, Peters discloses the respondent user answering the branch-to question with text (reads on “descriptive information”) (col. 4 lines 20-24, col. 6 lines 50-57).

(L) System claim 52 differs from method claim 1 by recited apparatus elements, namely a user interface and computer processor, rather than a series of steps. As per these elements, Peters discloses a display and processor (Fig. 1, col. 12 lines 1-36).

The remainder of claim 52 repeats the same limitations as claim 1, and is therefore rejected for the same reasons given for claim 1, and incorporated herein.

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(M) Claims 53-54, 57-65, and 71 repeat the same limitations as claims 1-2, 6-9, 10-13, and 67, and are therefore rejected for the same reasons given for those claims, and incorporated herein.

(N) Claims 55-56 repeat the same limitations as claims 26-27, and are therefore rejected for the same reasons given for those claims, and incorporated herein.

6. Claims 14, 51, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al. (5,893,098) and Sarchione et al. (Sarchione, Charles D., Michael J. Cuttler, Paul M. Muchinsky, and Rosemary O. Nelson-Gray, "Prediction of Dysfunctional Job Behaviors Among Law Enforcement Officers", *Journal of Applied Psychology*, Vol. 83, No. 6, pp. 904-912, 1998) as applied to claims 1, 15, and 52, and further in view of Golden (3,628,255).

(A) As per claims 14, 51, and 66, the relevant teachings of Peters and Sarchione, and the motivation for their combination is as discussed in the rejections above, and incorporated herein.

Peters, and Sarchione fail to expressly disclose "wherein the stem question response cannot be altered by the applicant after completion of the question collection."

Golden discloses an applicant depressing a score button, and once the answer is selected, the selected answer cannot be changed (col. 3 line 64 to col. 4 line 22).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the aforementioned features of Golden within the method and system taught collectively by Peters and Sarchione with the motivation of preventing tampering with responses to survey questions.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 6-15, 17, 25-31 and 47-72 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied prior art teaches

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

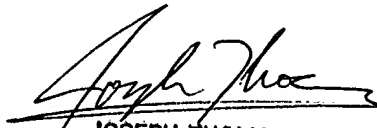
(571) 273-8300	[Official communications]
(571) 273-8300	[After Final communications labeled "Box AF"]
(571) 273-6767	[Informal/ Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

CB

CB

November 8, 2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600